

April 5, 2018

The Honorable Ajit V. Pai  
Chairman  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Dear Chairman Pai:

We ask that the Federal Communications Commission (FCC) take immediate action under federal law to address the prevalence of what could be hostile, foreign cell-site simulators—or stingrays—surveilling Americans in the nation’s Capital.

Cell-site simulators function essentially as fake cellphone towers, allowing their operators to trick nearby consumers’ cell phones into giving up confidential information that would normally be protected by consumers’ cell phone providers.<sup>1</sup> Press reports surfaced earlier this week that the Department of Homeland Security had identified suspected, unauthorized cell-site simulators operating throughout Washington.<sup>2</sup> More troubling, it appears that these cell-site simulators could be gathering intelligence on unwitting Americans on behalf of foreign governments.<sup>3</sup>

If these reports are true, it marks an incredible security vulnerability in the seat of the Federal government. Critical federal agencies including those involved in national defense and intelligence operate in the Washington D.C. area, and these cell-site simulators could be surreptitiously intercepting the sensitive data of federal government employees at these agencies. Just as troubling, these foreign actors could be intercepting communications from American citizens. The FCC, however, has the ability to take action to protect Americans from this type of foreign government surveillance.<sup>4</sup>

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<sup>1</sup> See 47 U.S.C. § 222.

<sup>2</sup> *DHS Confirms It has Detected Evidence of Mobile Snooping Devices Around DC*, CNN (Apr. 3, 2018) ([www.cnn.com/2018/04/03/politics/dhs-stingrays-washington-dc/index.html](http://www.cnn.com/2018/04/03/politics/dhs-stingrays-washington-dc/index.html)).

<sup>3</sup> *Id.*

<sup>4</sup> 47 U.S.C. § 301

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As the agency in charge of managing the commercial airwaves, the FCC has the statutory power to stop the illicit use of cell-site simulators.<sup>5</sup> Specifically, the Communications Act prohibits the very type of unauthorized transmissions that non-licensed cell-site simulators rely on to conduct surveillance.<sup>6</sup> With no apparent evidence that these recently revealed unauthorized cell-site simulators are operating with an FCC license, it would seem the FCC need only to enforce the law to stop this foreign intelligence gathering.

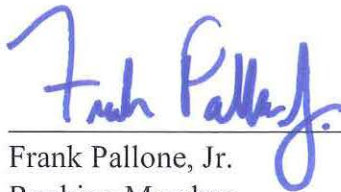
When prompted in the past to address the use of cell-site simulators by domestic governments, the FCC has only created a task force to “develop concrete solutions to protect the cellular network systemically from similar unlawful intrusions and interceptions.”<sup>7</sup> Consumer advocates have even filed legal complaints with the FCC asking them to take immediate action to address the use of such cell-site simulators.<sup>8</sup> Nevertheless, no action has been taken to date to actually address this problem. With foreign actors now potentially taking advantage of the Commission’s inaction, the FCC should act, consistent with applicable law and regulations, to investigate these allegations and address any unlawful use of cell-site simulators in the Capital and anywhere else they are used in U.S. soil.

We appreciate your assistance with this important matter and respectfully request a response to this letter forthwith.

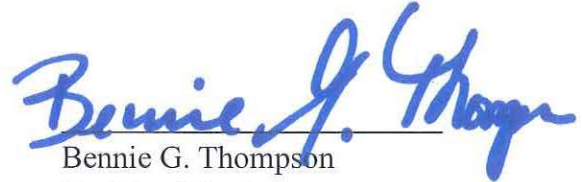
Sincerely,



Eliot L. Engel  
Ranking Member  
Foreign Affairs Committee



Frank Pallone, Jr.  
Ranking Member  
Energy & Commerce Committee



Bennie G. Thompson  
Ranking Member  
Homeland Security Committee

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<sup>5</sup> *Id.*

<sup>6</sup> *Id.* (“No person shall use or operate any apparatus for the transmission of energy or communications or signals by radio . . . except under an in accordance with this [Act] and with a license in that behalf granted under the provisions of this [Act].”).

<sup>7</sup> Letter from Christopher Krebs, Senior Official Performing the Duties of the Undersecretary, National Protection and Programs Directorate, Department of Homeland Security to Senator Ron Wyden (Mar. 26, 2018).

<sup>8</sup> Complaint for Relief Against Unauthorized Radio Operation and Willful Interference with Cellular Communications, Center for Media Justice, et. al. (Aug. 16, 2016).

The Honorable Ajit V. Pai

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cc: The Honorable Kristjen M. Nielsen, Secretary, Department of Homeland Security  
The Honorable John J. Sullivan, Acting Secretary, Department of State  
The Honorable Brendan Carr, Commissioner, Federal Communications Commission  
The Honorable Mignon Clyburn, Commissioner, Federal Communications Commission  
The Honorable Michael O'Rielly, Commissioner, Federal Communications Commission  
The Honorable Jessica Rosenworcel, Commissioner, Federal Communications Commission



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

June 1, 2018

The Honorable Frank Pallone  
Ranking Member  
Committee on Energy and Commerce  
U.S. House of Representatives  
2322A Rayburn House Office Building  
Washington, D.C. 20515

Dear Congressman Pallone:

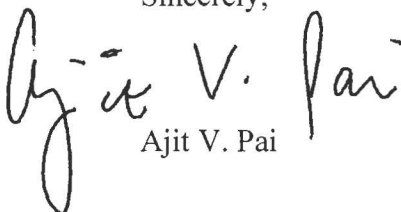
Thank you for your letter regarding the recent reports of cell-site simulators operating in the Washington, D.C. area. I share your concern that cell-site simulators may be used unlawfully by foreign actors and continue to monitor reports of their use.

The Department of Homeland Security has taken the lead in assessing the potential threat from certain uses of cell-site simulators. For example, the Department's April 2017 "Study on Mobile Device Security" identified cell-site simulators as an existing and emerging threat. And the Department's National Protection and Programs Directorate recently confirmed for Senator Wyden that it continues to assess the national security risks and vulnerabilities associated with cell-site simulators, as well as methods to mitigate such risks. The Commission stands ready to aid our federal partners at the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation in addressing this issue. If we had particularized evidence that certain devices were being unlawfully used within the United States, we would of course investigate the matter alongside our federal partners and take all appropriate enforcement actions.

Just as with all other devices that use radio frequency spectrum, cell-site simulators must meet our technical requirements for radio emissions. We continue to strictly limit the distribution of such devices within the United States, limiting their marketing and sale to federal, state, and local law enforcement officials and only after such use is coordinated in advance with the Federal Bureau of Investigation. Here too, if we had particularized evidence that certain devices were being unlawfully marketed or sold to foreign actors within the United States, we would investigate the matter alongside our federal partners and take all appropriate enforcement actions.

Please let me know if I can be of any further assistance.

Sincerely,

  
Ajit V. Pai





FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

June 1, 2018

The Honorable Bennie Thompson  
Ranking Member  
Committee on Homeland Security  
U.S. House of Representatives  
H2-117 Ford House Office Building  
Washington, D.C. 20515

Dear Congressman Thompson:

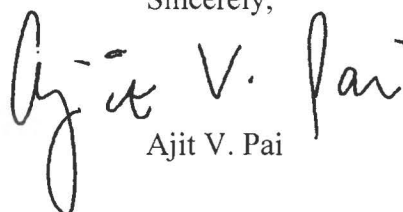
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Ajit V. Pai



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

June 1, 2018

The Honorable Eliot L. Engel  
Ranking Member  
Committee on Foreign Affairs  
U.S. House of Representatives  
B360 Rayburn House Office Building  
Washington, D.C. 20515

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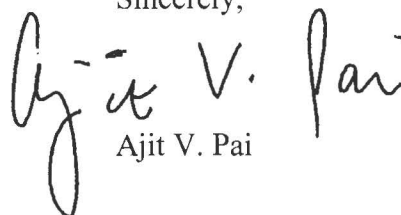
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